

Serial No. 09/939,558

Docket No. P-0240

Amendment dated December 22, 2005

Reply to Office Action of October 11, 2005

REMARKS

By the present response, Applicant has amended claims 1, 13, 15, 19 and 28 to further clarify the invention. Claims 1-28 remain pending in the present application.

Entry of the amended claims is proper under 37 C.F.R. §1.116 since the amendments: (1) place the application in condition for allowance (for the reasons discussed herein); (2) do not raise any new issues requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution without incorporating additional subject matter); (3) satisfy a requirement of form asserted in the previous Office Action; and/or (4) place the application in better form for appeal (if necessary). Entry is thus requested.

In the Office Action, claims 1-5, 8-9, 13, 15-20, 23-26 and 28 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,757,281 (Irish). Claims 6-7, 10, 11, 12, 14, 21, 22 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Irish in view of U.S. Patent No. 6,256,314 (Rodrig et al.).

Claim Numbering

The Examiner has requested that all future correspondence include line numbers for the claims. Applicant submits that the claims are in an appropriate format according to current U.S. PTO rules. There is no requirement that the claims include line numbering.

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Parent Application Status

The Examiner has requested the Applicant to update the status of all parent priority applications in the first line of the specification. Applicants have not listed any parent priority applications in Applicant's specification and thus no update is needed.

Response to Remarks

In the "Response to Remarks" section of the Office Action, the Examiner states that Applicants remarks are not found persuasive. The Examiner maintains that Irish teaches a communication method using a MAC address and one IP subnet including a plurality of the VLANs, and a plurality of the VLANs within a logical subnet, at col. 2, lines 25-30 and col. 6, lines 5-15. However, these portions merely disclose that broadcast traffic may be exchanged between the logically affiliated client devices of a VLAN to the exclusion of the other client devices affiliated with the other VLAN, that the layer 2 device may utilize multiple VLANs within the same device by logically partitioning the switch into two or more networks and/or sub-networks, and that the first, second, third, fourth, fifth and remote sub networks comprise separate sub-networks or VLANs, and for routing purposes the second sub-network and the sub-network in the remote sub-network are logically (i.e., from an IP address perspective) part of the same sub-network. This is not a plurality of VLANs belonging to the same internet protocol sub-net where a first ARP request packet transmitted from a source host of a number of hosts is broadcasted to a source VLAN of the plurality of VLANs, as recited in the claims of the present

application. Further, this is not broadcasting a second ARP request packet to a destination VLAN of the plurality of VLANs in which a destination host addressed by the first ARP packet is included. The mere disclosure in Irish or any reference of two VLANs being on the same sub-net does not disclose or suggest the limitations in the claims of the present application. Applicant reminds the Examiner that each and every limitation in the claims of the present application must be found in the cited reference, and the elements must be arranged as acquired by the claim. As noted in Applicants previously filed response, Irish relates to layer 2 switching and therefore the MAC layer addresses are known (see col. 1, lines 39-62). In contrast, the limitations in the claims of the present application relate to the transmission of the MAC address of the destination host in an ARP response packet that is received thus allowing a source host to transmit a unicast packet to the destination host. Irish actually teaches away from the use of routers and level 3 switching which refers to the use of IP packets from a source network to its destination network based on IP addresses (see, col. 1, line 63 - col. 2, line 16).

35 U.S.C. § 102 Rejections

Claims 1-5, 8, 9, 13, 15-20, 23-26 and 28 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Irish. Applicant respectfully traverses these rejections.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 U.S.P.Q.2d (BNA) 1429, 1431 (Fed. Cir. 1997). The identical invention must be shown in as complete detail

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as is contained in the . . . claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226,1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. §2131. The elements must be arranged as required by the claim. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. §2131. It is respectfully submitted that the Examiner has not met the required legal burden as set forth by the courts to substantiate valid rejections under 35 U.S.C. 102(e).

Regarding claims 1, 13, 15, 19 and 28, Applicant submits that Irish does not disclose or suggest the limitations in the combination of each of these claims. For example, the Examiner asserts that Irish discloses broadcasting a first ARP request packet transmitted from a source host of the number of hosts to a source VLAN of the plurality of VLANs, at col. 2, lines 35-40 and col. 8, lines 12-23 and fig. 1. However, these portions merely disclose that an ARP and a local cache are used to map the destination IP address to the appropriate destination MAC address, and that if the MAC layer address of the destination is recognized and supported, the route server broadcasts an address request for the MAC layer address of the destination on the correct sub-network or VLAN sub-network or VLAN which the route server recognizes and supports. This is not broadcasting an ARP request packet on a source host to a source VLAN of a plurality of VLANs belonging to the same IP subnet, as recited in the claims of the present application. In fact, these portions of Irish actually teach away from the limitations in the claims of the present application in that the disclosure relates to a situation where the MAC layer

address of the destination is not part of the same sub-network or VLAN as the host (see, col. 8 lines 1-23).

The Examiner further asserts that Irish discloses receiving a second ARP response packet from the destination host and transmitting a unicast packet originating from the source host to the destination host using a MAC address of the destination host that is included in the received second ARP response packet, at col. 8, lines 12-49. However, as noted previously, these portions of Irish relate to the situation where the MAC layer address of the destination is not part of the same sub-network or the VLAN. Further, the limitations in the claims of the present application relate to transmitting a first ARP response packet, and broadcasting a second ARP request packet to a destination VLAN, and receiving a second ARP response packet from the destination host, and then transmitting a unicast packet originating from the source host to the destination host using a MAC address of the destination host included in the received ARP response packet. These limitations as arranged in the claims of the present application are neither disclosed nor suggested in Irish. For a valid §102 rejection, the identical invention must be shown in as complete detail as is contained in the claim, and the elements must be arranged as required by the claim. The Examiner is not permitted to use impermissible hindsight in reading the limitations of the claims of the present application back into the cited reference.

Regarding claims 2-5, 8, 9, 16-18, 20, 23-26, Applicant submits that these claims are dependent on one of independent claims 1, 15 and 19 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Irish does not disclose or suggest the limitations in the combination of each of claims 1-5, 8, 9, 13, 15-20 23-26 and 28 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. § 103 Rejections

Claims 6, 7, 10-12, 14, 21, 22, and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Irish in view of Rodrig et al. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1, 13, 15 and 19 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicant submits that Rodrig et al. does not overcome the substantial defects noted previously regarding Irish.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 6, 7, 10, 11, 12, 14 ,21, 22 and 27 of the present application. Applicant respectfully request that these rejections be withdrawn and that these claims be allowed.

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CONCLUSION

In view of the foregoing Amendments and remarks, Applicant submits that claims 1-28 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Frederick D. Bailey, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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